



MINUTES OF THE CITY COUNCIL

SAN JOSE, CALIFORNIA

TUESDAY, DECEMBER 15, 2015

The Council of the City of San José convened in Regular Session at 9:03 a.m. in the Council Chamber at City Hall.

Present: Council Members - Carrasco, Herrera, Jones, Kalra, Khamis, M. Nguyen, T. Nguyen, Oliverio, Peralez, Rocha; Liccardo.

Absent: Council Members - All Present.

STRATEGIC SUPPORT SERVICES

3.2 Accept Labor Negotiations Update.

There was no report.

CLOSED SESSION

Upon motion unanimously adopted, Council recessed at 9:13 a.m. to a Closed Session in Room W133 (A) to confer with Legal Counsel pursuant to Government Code Section 54956.9 subsection (c) with respect to initiation of litigation in four (4) matters. (B) to confer with Legal Counsel pursuant to Government Code Section 54956.9(d)(1) with respect to existing litigation: (1) Lam v. City of San José, et al. Names of Parties Involved: Hung Lam, individually, through his next friend, Kathy Lam, City of San José, Larry Esquivel and Dondi West; Court: United States District Court, Northern District of California, San José Division; Case No: 14-CV-00877 PSG; Amount of Money or Other Relief Sought: Damages according to proof. (2) San Francisco Baykeeper v. City, et al. Names of Parties Involved: San Francisco Baykeeper, City of San José, San José Department of Transportation, San José Public Works Department, San José Environmental Services Department; Court: United States District Court, Northern District of California, San José Division; Case No: 15-CV-00642-BLF; Amount of Money or Other Relief Sought: Declaratory Relief, Injunctive Relief. (3) IAFF Local 230 v. City of San José; Names of Parties Involved: International Association of Firefighters Local 230, City of San José; Court: State of California Public Employment Relations Board; Case No: SF-CE-996-M; Amount of Money or Other Relief Sought: Damages

CLOSED SESSION (Cont'd.)

according to proof. (4) IFPTE Local 21 v. City of San José; Names of Parties Involved: International Federation of Professional and Technical Engineers Local 21, City of San José; Court: State of California Public Employment Relations Board; Case No: SF-CE-996-M; Amount of Money or Other Relief Sought: Damages according to proof. (5) American Federation of State, County and Municipal Employment Relations Board; Case No: SF-CE-924-M; Amount of Money or Other Relief Sought: Damages According to Proof. (6) OE#3 v. City of San José; Names of Parties Involved: Operating Engineers Local Union No. 3, City of San José; Court: State of California Public Employment Relations Board; Case No: SF-CE-900-M. (7) San José Police Officers' Association v. City, et al; Names of Parties Involved: San José Police Officers' Association, City of San José, Board of Administration for Police and Fire Department Retirement Plan of City of San José and Does 1-100; Court: Superior Court of California, County of Santa Clara; Case No: 1-12-CV-225926, H040979, H042074; Amount of Money or Other Relief Sought: Declaratory Relief and Verified Petition for Writ of Mandate. (8) San José Retired Employees Association, et al. v. City, et al; Names of Parties Involved: San José Retired Employees Association, Howard E. Fleming, Donald S. Macrae, Frances J. Olson, Gary J. Richert and Rosalinda Navarro, City of San José Does 1 – 50, Board of Administration for the Federated City Employees Retirement System; Court: Superior Court of California, County of Santa Clara; Case No: 1-12-CV-233660, H040979, H042074; Amount of Money or Other Relief Sought: Declaratory Relief and Verified Petition for Writ of Mandate. (9) Sapien, et al. v. City of San José, et al; Names of Parties Involved: Robert Sapien, Marty Kathleen McCarthy, Thanh Ho, Randy Sekany, Ken Heredia, City of San José, Debra Figone in her official capacity as City Manager of the City of San José, Does 1-15, The Board of Administration for the 1961 San José Police and Fire Department Retirement Plan; Court: Superior Court of California, County of Santa Clara; Case No: 1-12-CV-225928, H040979, H042074; Amount of Money or Other Relief Sought: Challenge to Measure B. (10) Harris, et al. v. City of San José, et al; Names of Parties Involved: Teresa Harris, Jon Reger, Moses Serrano, Suzann Stauffer, City of San José, Debra Figone in her official capacity as City Manager of the City of San José, The Board of Administration for the 1975 Federated City Employees' Retirement Plan, Does 1-15; Court: Superior Court of California, County of Santa Clara; Case: 1-12-CV-226570, H040979, H042074; Amount of Money or Other Relief Sought: Challenge to Measure B. (11) Mukhar, et al. v. City of San José, et al; Names of Parties Involved: John Mukhar, Dale Dapp, James Atkins, William Buffington, Kirk Pennington, City of San José, Debra Figone in her official capacity as City Manager of the City of San José, The Board of Administration for the 1975 Federated City Employees' Retirement Plan, Does 1-15; Court: Superior Court of California, County of Santa Clara; Case: 1-12-CV-226574, H040979, H042074; Amount of Money or Other Relief Sought: Challenge to Measure B. (12) AFSCME, et al. v. City of San José, et al; Names of Parties Involved: American Federation of State, County and Municipal Employees, Local 101 on behalf of its members, City of San José, The Board of Administration for the Federated City Employees' Retirement Plan; Court: Superior Court of California, County of Santa Clara; Case: 1-12-CV-225928, H040979, H042074; Amount of Money or Other Relief Sought:

CLOSED SESSION (Cont'd.)

Challenge to Measure B. (13) People of the State of California, et al. v. City of San José, et al. Names of Parties Involved: The People of the State of California ex rel, San José Police Officers' Association, City of San José, City Council of San José; Court: Superior Court of the State of California for the County of Santa Clara; Case No: 1-13-CV-245503; Amount of Money or Other Relief Sought: Verified Complaint in Quo Warranto. (14) San José Retired Employees Association, et al v. City of San José, et al. Names of Parties Involved: San José Retired Employees Association, Kirk Pennington, David Armstrong, Donna Jewett, Dorothy McGinley, City of San José, The Board of Administration for the Federated City Employees Retirement Plan; Court: Superior Court of California, County of Santa Clara; Case No: 1-14-CV-2680085; Amount of Money or Other Relief Sought: Change to City Medical Plan. (C) to confer with Labor Negotiator pursuant to Government Code Section 54957.6: City Negotiator: City Designee Jennifer Schembri; Director of Employee Relations; Employee Organizations: (1) Association of Building, Mechanical and Electrical Inspectors (ABMEI); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and ABMEI. (2) Association of Engineers & Architects (AEA); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and AEA. (3) Association of Maintenance Supervisory Personnel (AMSP); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and AMSP. (4) City Association of Management Personnel Agreement (CAMP); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and CAMP. (5) Confidential Employees' Organization, AFSCME Local 101 (CEO); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and CEO. (6) International Association of Firefighters, Local 230 (IAFF); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and International Association of Firefighters. (7) International Brotherhood of Electrical Workers (IBEW); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and IBEW. (8) Municipal Employees' Federation, AFSCME Local 101, AFL-CIO (MEF); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and MEF; (9) International Union of Operating Engineers, Local No. 3 (OE#3); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and San José Police Officers' Association. (11) Association of Legal Professionals of San José (ALP); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc. Web: <http://www.sanjoseca.gov/?nid=186>; Telephone for Employee Relations: 408-535-8150. (12) Unit 99 Unrepresented Employees; Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc.

CLOSED SESSION (Cont'd.)

By unanimous consent, Council recessed from the Closed Session at 11:30 a.m. and reconvened to Regular Session at 11:39 a.m. in the Council Chamber.

Present: Council Members - Carrasco, Herrera, Jones, Kalra, Khamis, M. Nguyen, T. Nguyen, Oliverio, Peralez, Rocha; Liccardo.

Absent: Council Members - All Present.

INVOCATION

Pastor David Cannistraci, Gateway City Church offered a prayer for the Invocation. (Mayor)

PLEDGE OF ALLEGIANCE

Mayor Sam Liccardo led the Pledge of Allegiance.

ORDERS OF THE DAY

Upon motion by Vice Mayor Rose Herrera, seconded by Council Member Chappie Jones and carried unanimously, the Orders of the Day and the Amended Agenda were approved, General Plan Items 10.2 and 10.3 were heard before the Consent Calendar; Item 2.23 was deferred to January 12, 2016; Items 3.5 and 3.10 were deferred to January 2016; Item 3.11 was heard no earlier than 2:30 and Item 4.4 was heard no earlier than 4:00 p.m. (11-0.)

GENERAL PLAN PUBLIC HEARINGS

- 10.2 (a) Adopt a resolution certifying the Supplemental Program Environmental Impact Report to the Envision San José 2040 General Plan Program Environmental Impact Report (Resolution No. 76041) providing additional analysis and information on greenhouse gas emissions, and making certain findings concerning significant environmental impacts, mitigation measures and alternatives, adopting a mitigation monitoring and reporting program, and adopting a statement of overriding considerations, all in accordance with the California Environmental Quality Act (CEQA). PP15-060 – District: Citywide**

- 10.2 (b) Tentative approval of a General Plan Amendment to incorporate text revisions to the Envision San José 2040 General Plan including, but not limited to, the update and re-adoption of the City's Greenhouse Gas Reduction Strategy.

CEQA: Supplemental Environmental Impact Report to the Envision San José 2040 General Plan Program EIR (Resolution No. 76041) certified by the City of San José on November 1, 2011. Planning Commission recommends approval (6-0-1) (Yesney recused). (Planning, Building and Code Enforcement). File Nos: PP15-060 and GPT15-002 – District: Citywide

Documents Filed: (1) Memorandum from Mayor Sam Liccardo, dated December 11, 2015, recommending acceptance of the Staff recommendations with direction to Staff as described below in "Action". (2) Memorandum from Planning Commission Secretary Harry Freitas, dated December 7, 2015, transmitting the Planning Commission recommendation. (3) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File Nos. PP15-060 and GPT15-002 dated November 24, 2015. (4) Proof of Publication of Notice of Public Hearing, executed on November 20, 2015, submitted by the City Clerk.

Mayor Sam Liccardo thanked Staff for bringing forward these changes that will further strengthen existing General Plan policies and actions to reduce Greenhouse Gas emissions.

Motion: Council Member Ash Kalra moved approval of the memorandum from Mayor Sam Liccardo, dated December 11, 2015, recommending acceptance of the Staff recommendations with direction to Staff as described below in "Action". Vice Mayor Rose Herrera seconded the motion.

Vice Mayor Rose Herrera, Council Member Magdalena Carrasco and Council Member Raul Peralez commended Mayor Sam Liccardo and expressed appreciation for his leadership.

Mayor Sam Liccardo pointed out that additional effective outreach is required in the community in order to modify behavior.

Action: The City Council tentatively approved the memorandum from Mayor Sam Liccardo, dated December 11, 2015: (1) Accept the Staff recommendation as described above in 10.2(a). (2) Direct Staff to return in the Spring with a work plan, in concert with the Green Vision update, to formulate a GHG-Reduction Goal with targets that would suffice -- if other major cities in industrialized nations set a similar target -- to ensure that global temperature increase does not exceed 2 degrees Celsius. This target should encompass goals for both 2030 and 2050 and should necessarily be more aggressive than that established by international agreement in Paris. Resolution No. 77517, entitled: "A Resolution of the Council of the City of San José Making Certain Findings Concerning Significant Impacts, Mitigation Measures and Alternatives and Adopting a Statement of

10.2 (Action Cont'd.)

Overriding Considerations and A Mitigation Monitoring and Reporting Program, All in Accordance with the California Environmental Quality Act, As Amended, In Connection with the Envision San José 2040 General Plan Including Its Greenhouse Gas Reduction Strategy (SCH# 2009072096) For Which a Supplemental Program Environmental Impact Report Has Been Prepared”, was tentatively adopted. The City Council tentatively adopted the General Plan Amendment. (11-0.)

10.3 Adopt a resolution approving all General Plan Amendment actions taken on December 8, 2015 and December 15, 2015.

Documents Filed: Supplemental memorandum from Director of Planning, Building and Code Enforcement Harry Freitas, dated December 14, 2015, recommending General Plan Text Amendment GPT15-001 be revised as approved Council on December 8, 2015, to increase the FAR from up to 15.0 FAR to up to 30.0 FAR for the Downtown Land Use Designation.

Action: Upon motion by Council Member Pierluigi Oliverio, seconded by Vice Mayor Rose Herrera and carried unanimously, Resolution No. 77618, entitled: “A Resolution of the Council of the City of San José Specifying the Council’s Determinations on Proposed Amendments to the Envision San José 2040 General Plan Pursuant to Title 18 of the San José Municipal Code and Approving Various Amendments to the Jackson-Taylor Residential Strategy”, was adopted, and approving all General Plan Amendment actions taken on December 8, 2015 and December 15, 2015. (11-0.)

CONSENT CALENDAR

Upon motion by Vice Mayor Rose Herrera, seconded by Council Member Tam Nguyen and carried unanimously, the Consent Calendar was approved and the below listed actions were taken as indicated. (11-0)

2.1 Approval of Minutes.

There were none.

2.2 Final adoption of ordinances.

- (a) ORD. NO. 29664 – An ordinance of the City of San José amending chapter 6.88 of Title 6 of the San José Municipal Code as follows: to add Section 6.88.295 to add the definition of transport; to add Section 6.88.425 to require identification badges to be worn; to add Section 6.88.445 to expressly prohibit deliveries of medical marijuana; to add Section 6.88.465 to allow a registered collective to transfer medical marijuana to other collectives who are registered with the City; to amend Sections 6.88.212, 6.88.235, 6.88.242,**

- 2.2 (a) 6.88.310, 6.88.330, 6.88.380, 6.88.420, 6.88.430, 6.88.435, 6.88.440, 6.88.460 and 6.88.900 to allow registered collectives to manufacture medical marijuana products at their off-site cultivation location, clarify disqualification from the registration process, revise the requirements for cultivation, decrease the time required for storing video from surveillance cameras from 90 to 30 days, impose new restrictions on cultivation for personal use, and to make other technical, nonsubstantive, or typographical changes. CEQA: Addendum to a Negative Declaration, File No. PP11-076.

Documents Filed: Proof of Publication of the Title of Ordinance No. 29664 executed on December 11, 2015, submitted by the City Clerk.

Action: Ordinance No. 29664 was adopted. (11-0.) (First Reading: 10-1. Noes: M. Nguyen.)

- (b) **ORD. NO. 29662** – An ordinance of the City of San José amending Chapter 6.44 of the San José Municipal Code to add a purpose section, add additional and clarifying definitions, require all massage therapists to be certified by the California Massage Therapy Council, require massage businesses to provide the Police Chief with copies of massage therapist certificates, require mandatory reporting to the Police Chief, specify operational requirements and to make other technical and required revisions to be consistent with State law. CEQA: Not a Project, File No. PP10-068(c), Municipal Code or Policy change that involves no changes in the physical environment.

Documents Filed: Proof of Publication of the Title of Ordinance No. 29662 executed on December 11, 2015, submitted by the City Clerk.

Action: Ordinance No. 29662 was adopted. (11-0.)

- (c) **ORD. NO. 29668** – An ordinance of the City of San José rezoning the real property located on the west side of South De Anza Boulevard, approximately 120 feet west of the intersection of South De Anza Boulevard and Rainbow Drive from the A(PD) Planned Development Zoning District to the Commercial Pedestrian (CP) Zoning District on a 0.13 gross acre site (Vigagold Inc., Owner).

Documents Filed: Proof of Publication of the Title of Ordinance No. 29668 executed on December 11, 2015, submitted by the City Clerk.

Action: Ordinance No. 29668 was adopted. (11-0.)

- 2.2 (d) **ORD. NO. 29669** – An ordinance of the City of San José rezoning four properties located on the northwest corner of West San Carlos and Delmas Avenue (267 and 279 Delmas Avenue and 405 West San Carlos Street) from LI Light Industrial to the DC Downtown Primary Commercial Zoning District on an approximately 0.47 gross acre site (San Carlos Parts LLC, Owner). CEQA: Envision San José 2040 General Plan Final Program EIR (Resolution No. 76041), and addenda thereto, including Addendum File No. C15-042.

Documents Filed: Proof of Publication of the Title of Ordinance No. 29669 executed on December 11, 2015, submitted by the City Clerk.

Action: Ordinance No. 29669 was adopted. (11-0.)

- (e) **ORD. NO. 29670** – An ordinance of the City of San José rezoning the real property located at 1785 Oakland Road from the A(PD) Planned Development Zoning District to the IP(PD) Planned Development Zoning District to allow uses of the IP Industrial Park Zoning District and miniwarehouse/ministorage uses on an approximately 1.25 gross acre site (Union Carbide Industrial Gases Inc., Owner).

Documents Filed: Proof of Publication of the Title of Ordinance No. 29670 executed on December 11, 2015, submitted by the City Clerk.

Action: Ordinance No. 29670 was adopted. (11-0.)

- (f) **ORD. NO. 29667** – An ordinance of the City of San José rezoning the real property located at the southwest corner of Senter Road and East Capitol Expressway at 3167 Senter Road from the CP Commercial Pedestrian Zoning District to the PQP Public/Quasi-Public Zoning District for consideration of education land uses on a 1.58 gross acre site (Arnold Perez, Owner).

Documents Filed: Proof of Publication of the Title of Ordinance No. 29667 executed on December 11, 2015, submitted by the City Clerk.

Action: Ordinance No. 29667 was adopted. (11-0.) (First Reading: 10-1. Noes: Rocha.)

- (g) **ORD. NO. 29665** – An ordinance of the City of San José to rezone from IP Industrial Park to LI Light Industrial Zoning District on a 4.48 gross acre site, located on the north of Silver Creek Valley Road, approximately 210 feet north of Hellyer Avenue at 5880 Hellyer Avenue (AgKey, LLC, Owner). CEQA: Edenvale East General Plan Amendment and Rezoning Project Negative Declaration.

2.2 (g) (Cont'd.)

Documents Filed: Proof of Publication of the Title of Ordinance No. 29665 executed on December 11, 2015, submitted by the City Clerk.

Action: Ordinance No. 29665 was adopted. (11-0.)

- (h) ORD. NO. 29666 – An ordinance of the City of San José rezoning the real property located at the northwest corner of North 10th Street and East Taylor Street from A(PD) Planned Development Zoning District to CIC(PD) Planned Development Zoning District to allow up to 403 residential units and up to 5,000 square foot of retail space, the uses of the CIC Combined Industrial Commercial Zoning District (with mini storage per applicant). (Libitzky Holdings, LP, Owner). Cannery Park/Hanover Project Mitigated Negative Declaration.**

Documents Filed: Proof of Publication of the Title of Ordinance No. 29666 executed on December 11, 2015, submitted by the City Clerk.

Action: Ordinance No. 29666 was adopted. (11-0.)

2.3 Approval of Council Committee Minutes.

- (a) Rules and Open Government Committee Minutes of November 18, 2015.
(Mayor)**

CEQA: Not a Project, File No. PP10-069(c), City Administrative Activities.

Documents Filed: The Rules and Open Government Committee Report and Minutes dated November 18, 2015.

Action: The Rules and Open Government Committee Minutes were approved. (11-0.)

2.4 Mayor and Council Excused Absence Requests.

There were none.

2.5 City Council Travel Reports.

There were none.

2.6 Report from the Council Liaison to the Retirement Boards.

There were none.

2.7 Adopt a resolution:

- (a) Authorizing the City Manager to negotiate and execute an On-Airport Lease (“Lease”) with the U.S. General Services Administration (“GSA”) for exclusive space leased by the Transportation Security Administration at the Airport from January 1, 2016 through December 31, 2019, with the option for GSA to extend the term for an additional three years through December 31, 2022 on the same terms and conditions, and with revenue to the City of approximately \$ 1,210,000 annually.**
- (b) Authorizing the City Manager to negotiate and execute amendments to the Lease necessary to implement annual lease rate adjustments and changes in leased space at any time during the term of the Lease.**

CEQA: Not a Project, File No. PP10-066(f), Lease of equipment or existing space for the same use. (Airport)

Documents Filed: Memorandum from Director of Aviation Services Kimberly J. Becker, dated November 23, 2015, recommending adoption of a resolution.

Action: Resolution No. 77619, entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute an On-Airport Lease with the U.S. General Services Administration for Exclusive Space Occupied by the Transportation Security Administration at the Norman Y. Mineta San José International Airport For An Initial Term Expiring December 31, 2019, With the Option for GSA to Extend the Term for an Additional Three Years and Negotiate and Execute Lease Amendments to Implement Annual Lease Rate Adjustments and Changes in Leased Space”, was adopted. (11-0.)

2.8 Approve the following Board and Commission appointments:

- (a) Airport Commission:**
 - (1) District 1 Seat: Appoint Richard Terrill to a term expiring 6/30/17;**
- (b) Historic Landmarks Commission:**
 - (1) Member Seat: Appoint Eric Hirst to a term expiring 6/30/18;**
- (c) Human Services Commission:**
 - (1) District 5 Seat: Appoint Peter Ortiz to a term expiring 12/31/16;**
- (d) Library and Early Education Commission:**
 - (1) District 8 Seat: Appoint Matthew Giordono to a term expiring 6/30/17;**
- (e) Neighborhoods Commission:**
 - (1) District 4 Seat: Appoint Mark Espinoza to a term expiring 6/30/16;**
- (f) Senior Citizens Commission:**
 - (1) Citywide Seat: Appoint May Miller to a term expiring 6/30/17.**

CEQA: Not a Project, File No. PP10-069(c), City Administrative Activities. (City Clerk)

2.8 (Cont'd.)

Documents Filed: (1) Memorandum from City Clerk Toni J. Taber, CMC, dated December 4, 2015, recommending approval of the Board and Commission appointments as described above in 2.8(a)-(f). (2) Seven memoranda from City Attorney Richard Doyle, five dated November 16, 2015, one dated November 13, 2015 and one dated November 4, 2014, providing background information for all the applicants and commissions. (3) Ten memoranda from Deputy Director of Planning, Building and Code Enforcement Diane Buchanan, all dated November 13, 2015, responding to the requests for review of the list of applicants to determine whether any complaints have been reported involving any property that the applicants own or was otherwise involved and found no code violations.

Action: The Board and Commission appointments were approved as described previously. (11-0.)

2.9 **Authorize travel for City Manager, Norberto Dueñas to travel to Phoenix, Arizona on January 14 – 16, 2016 to participate in the Large Cities Executive Forum. City Manager's Non Personal Services Appropriation. CEQA: Not a Project, File No. PP10-069, City Administrative Activities. (City Manager)**

Documents Filed: Memorandum from City Manager Norberto Dueñas, dated December 4, 2015, requesting approval of travel.

Action: The travel request from City Manager Norberto Dueñas was approved. (11-0.)

2.10 **As recommended by the Rules and Open Government Committee on December 2, 2015:**

- (a) **Retroactively approve Vice Mayor Rose Herrera's Fall Public Safety Fair/Forum held on Monday, November 23, 2015 as a City Council sponsored Event and approve the expenditure of funds.**
- (b) **Approve and accept donations from various individuals, businesses or community groups to support the event.**

**CEQA: Not a Project, File No. PP15-077, Temporary Special Events. (Herrera)
[Rules Committee referral 12/2/15 – Item G(1)(a)]**

Documents Filed: Memorandum from City Clerk Toni J. Taber, CMC, dated December 3, 2015, transmitting the recommendations of the Rules and Open Government Committee.

Action: The Vice Mayor Rose Herrera's Fall Public Safety Fair/Forum held on Monday, November 23, 2015 as a City Council sponsored Special Event was retroactively approved and the expenditure of funds were approved and acceptance of donations from various individuals, businesses or community groups to support the event was authorized. (11-0.)

- 2.11 As recommended by the Rules and Open Government Committee on December 2, 2015, appoint Council Member Manh Nguyen to represent the City of San José on the Santa Clara Valley Transportation Authority Board (VTA). CEQA: Not a Project, File No. PP10-069, City Administrative Activities. (Mayor)
[Rules Committee referral 12/2/15 – Item F(1)(a)]**

Documents Filed: Memorandum from City Clerk Toni J. Taber, CMC, dated December 3, 2015, transmitting the recommendations of the Rules and Open Government Committee.

Action: Council Member Manh Nguyen was appointed to represent the City of San José on the Santa Clara Valley Transportation Authority Board. (11-0.)

- 2.12 Approve the First Amendment to the Agreement for Consultant Services with Moore, Iacofano Goltsman, Inc. to increase the total contract amount from \$250,000 to \$750,000, which will allow continued comprehensive planning support for various Parks, Recreation and Neighborhood Services Department Capital Improvement Projects including, but not limited to, community centers, parks, trails, and other recreational facilities. CEQA: Not a Project, File No. PP10-066(d), Consultant Services that involve no physical changes to the environment. (Parks, Recreation and Neighborhood Services)**

Documents Filed: City Council Action Request from Director of Parks, Recreation and Neighborhood Services Angel Rios, Jr., dated November 23, 2015, recommending approval of the First Amendment to the Agreement for Consultant Services.

Action: The First Amendment to the Agreement for Consultant Services with Moore, Iacofano Goltsman, Inc. to increase the total contract amount from \$250,000 to \$750,000, which will allow continued comprehensive planning support for various Parks, Recreation and Neighborhood Services Department Capital Improvement Projects including, but not limited to, community centers, parks, trails, and other recreational facilities was approved. (11-0.)

- 2.13 Accept the Park Trust Fund Annual Report for Fiscal Year 2014-2015. CEQA: Not a project, File No. PP10-069(a), Annual Reports and Assessments that involve no approvals of any city actions. (Parks, Recreation and Neighborhood Services)**

Documents Filed: Memorandum from Director of Parks, Recreation and Neighborhood Services Angel Rios, Jr., dated November 23, 2015, recommending acceptance of the report.

Assistant Director of Parks, Recreation and Neighborhood Services Matt Cano responded to questions from Mayor Sam Liccardo.

Action: Upon motion by Council Member Raul Peralez, seconded by Council Member Chappie Jones and carried unanimously, the Park Trust Fund Annual Report for Fiscal Year 2014-2015 was accepted. (11-0.)

2.14 Adopt a resolution:

- (a) Accepting the 2016-2017 Hazardous Vegetation Commencement Report compiled by the Office of Santa Clara Environmental Resource Agency, Department of Agriculture and Resource Management, Division of Hazardous Vegetation.**
- (b) Declaring that those certain noxious or dangerous seasonal and recurrent weeds, growing or likely to be growing, and refuse, situated or likely to be situated, on those properties identified in the Report are a public nuisance.**
- (c) Directing the Office of Santa Clara Environmental Resource Agency, Department of Agriculture and Resource Management, Division of Hazardous Vegetation to mail notices of a Public Hearing on January 26, 2016 at 1:30 p.m. before the City Council on the Report to property owners of affected real properties pursuant to Chapter 9.12 of Title 9 of the San José Municipal Code and the Weed Abatement Agreement between the City of San José and the County of Santa Clara.**

CEQA: Exempt, Guidelines Section 15301. Existing Facilities, File No. PP13-097. (Planning, Building and Code Enforcement)

Documents Filed: Memorandum from Director of Planning, Building and Code Enforcement Harry Freitas, dated November 23, 2015, recommending adoption of a resolution.

Action: Resolution No. 77620, entitled: “A Resolution of the Council of the City of San José Accepting and Confirming the 2016-2017 Hazardous Vegetation Commencement Report Compiled by the Santa Clara County Department of Agriculture and Environmental Management; Declaring Certain Noxious or Dangerous Seasonal and Recurrent Weeds Growing or Likely To Be Situated on Those Properties Identified in the Report Are a Public Nuisance, and Directing that Notice of This Resolution and a Public Hearing on the Report on January 26, 2016 at 1:30 p.m. Be Given Pursuant to Chapter 9.12 of the San José Municipal Code”, was adopted. (11-0.)

2.15 Approve an ordinance amending Chapter 15.11 (Water Efficient Landscape Standards for New and Rehabilitated Landscaping) of Title 15 (Public Utilities) of the San José Municipal Code to add and amend definitions, modify landscape installation requirements, and expand the types of projects subject to landscape installation requirements, consistent with State regulations governing local landscape water efficiency ordinances. CEQA: Envision San José 2040 General Plan EIR, Resolution No. 76041, and Addenda thereto. (Planning, Building and Code Enforcement)

Documents Filed: (1) Memorandum from Director of Planning, Building and Code Enforcement Harry Freitas, dated November 20, 2015, recommending approval of an ordinance. (2) Proof of Publication of Notice of Public Hearing, executed on November 20, 2015, submitted by the City Clerk.

2.15 (Cont'd.)

Action: Ordinance No. 29671, entitled: "An Ordinance of the City of San José Amending Chapter 15.11 of Title 15 of the San José Municipal Code To Add and Amend Definitions, Modify Landscape Installation Requirements and Expand the Types of Projects Subject to Landscape Installation Requirements Consistent With State Regulations Governing Local Landscape Water Efficiency Ordinances", was passed for publication. (11-0.)

- 2.16 (a) **Adopt a resolution authorizing the City Manager to execute an Agreement between the City of San José and the City and County of San Francisco, acting as fiscal agent for the Bay Area Urban Areas Security Initiative (UASI), to accept the 2015 UASI grant allocation in the amount of \$1,000,000, and to negotiate and execute additional amendments and related documents without further City Council action.**
- (b) **Adopt the following 2015-2016 Appropriation Ordinance and Funding Sources Resolution Amendments in the General Fund:**
- (1) **Establish a City-Wide Expenses appropriation to the Police Department for the Urban Areas Security Initiative Grant - Police 2015 in the amount of \$580,000.**
 - (2) **Establish a City-Wide Expenses appropriation to the Fire Department for the Urban Areas Security Initiative Grant - Fire 2015 in the amount of \$155,000.**
 - (3) **Increase the estimate for Revenue from the Federal Government by \$735,000.**

CEQA: Not a Project, File No. PP10-066 Agreements and Contracts with no changes in the physical environment and File No. PP10-0067(b) appropriation ordinance that involve no approvals of city actions that involve impacts to the physical environment. (Police/Fire/City Manager)

Documents Filed: Memorandum from Chief of Police Larry Esquivel, Fire Chief Curtis Jacobson and Senior Deputy City Manager/Budget Director Jennifer A. Maguire, dated November 30, 2015, recommending adoption of a resolution and appropriation ordinance and funding sources resolution amendments.

Mayor Sam Liccardo opened the floor for public testimony.

Public Comments: Blair Beekman presented his own views on funding the Bay Area Urban Areas Security Initiative.

Action: Upon motion by Vice Mayor Rose Herrera, seconded by Council Member Tam Nguyen and carried unanimously, Resolution No. 77621, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Execute an Agreement With the City and County of San Francisco, Acting as Fiscal Agent for the Bay Area Urban Areas Security Initiative (UASI), To Accept the Federal Fiscal Year 2015 UASI

2.16 (Action Cont'd.)

Grant Allocation in the Amount of \$1,000,000 and To Negotiate and Execute Additional Amendments and Related Documents Without Further Council Action”; Ordinance No. 29672, entitled: “An Ordinance of the City of San José Amending Ordinance No. 29589 to Appropriate Monies in the General Fund for the Urban Areas Security Initiative Grant 2015; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption” and Resolution No. 77622, entitled: “A Resolution of the Council of the City of San José Amending Resolution No. 77423 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2015-2016 to Adjust Revenues in the General Fund”, were adopted. (11-0.)

- 2.17 (a) **Approve an Amendment to the existing City-Private Developer Agreement with North San Pedro Townhomes, LLC and San Pedro Life I, LLC to allow the City to reimburse the Developer in an amount not to exceed \$1,427,692 for the realignment of the existing sanitary sewer located on Terraine Street between W. St. James Street and Devine Street.**
- (b) **Adopt a resolution authorizing the City Manager, on behalf of the City, to execute documents as necessary to finalize an exchange of properties between the City and Charles W. Davidson, Anita A. Davidson and Gloria Chiang, Trustees of the Davidson Living Trust dated December 6, 1989, pursuant to a Temporary Construction Easement and Exchange Agreement to be executed between the Successor Agency and the Davidson Trust in connection with the Julian Street Realignment Project.**

CEQA: File No. PP13-076, Remove and replace in-kind underground utility pipes. Council District 3. (Public Works)

Documents Filed: (1) Memorandum from Director of Public Works Barry Ng, dated November 23, 2015, recommending approval of an amendment to the agreement. (2) Supplemental memorandum from Successor to the Redevelopment Agency Managing Director Richard A. Keit, dated December 11, 2015, recommending adopting of a resolution.

Action: An Amendment to the existing City-Private Developer Agreement with North San Pedro Townhomes, LLC and San Pedro Life I, LLC to allow the City to reimburse the Developer in an amount not to exceed \$1,427,692 for the realignment of the existing sanitary sewer located on Terraine Street between W. St. James Street and Devine Street was approved and Resolution No. 77623, entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Execute Documents as Necessary to Finalize an Exchange of Properties Between the City of San José and Charles W. Davidson, Anita A. Davidson and Gloria Chang, Trustee of the Davidson Trust, Pursuant to a Temporary Construction Easement and Exchange Agreement To Be Executed Between the Successor Agency and the Davidson Trust in Connection With the Julian Street Realignment Project”, was adopted. (11-0.)

- 2.18 (a) **Adopt a resolution:**
- (1) **Approving the report of the Director of Public Works setting forth the facts justifying the summary vacation of the public easement.**
 - (2) **Vacating a portion of the public easement on 1914 McBain Avenue that has been superseded by relocation upon the satisfaction of the conditions set forth in the resolution.**
 - (3) **Directing the City Clerk, upon the satisfaction of the conditions set forth in the resolution, to record a certified copy of the resolution of vacation with the Office of the Recorder, County of Santa Clara.**
- (b) **Adopt a resolution authorizing the City Manager to negotiate and execute a quitclaim deed for the portion of public easement to be summarily vacated, which will be provided to the property owners of 1914 McBain Avenue, Eric L. and Christen M. Fisher, upon the satisfaction of conditions set forth in the resolution of vacation.**

CEQA: Exempt, Guidelines Section 15305. Minor Alterations to Land, Department of Public Works File No. 3-18966. Council District 1. (Public Works)

Documents Filed: Memorandum from Director of Public Works Barry Ng, dated November 23, 2015, recommending adoption of resolutions.

Action: Resolution No. 77624, entitled: "A Resolution of the Council of the City of San José Vacating, Upon the Satisfaction of Certain Conditions, A Portion of a Public Easement on Private Property Located at 1914 McBain Avenue Approximately 420 Feet East of Leigh Avenue" and Resolution No. 77625, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute a Quitclaim Deed for a Portion of the Public Easement on 1914 McBain Avenue to Be Summarily Vacated, Which Will Be Provided to the Property Owners, Eric L. and Christen M. Fisher, Upon the Satisfaction of Certain Conditions", was adopted. (11-0.)

- 2.19 (a) **Approve award of a construction contract for the 6736 – Large Trash Capture Device Installation - Phase III Project to the low bidder, JMB Construction, Inc. in the amount of \$5,421,787 and a ten percent contingency in the amount of \$542,179.**
- (b) **Adopt the following 2015-2016 Appropriation Ordinance amendments in the Storm Sewer Capital Fund:**
- (1) **Decrease the Unrestricted Ending Fund Balance in the amount of \$2,000,000.**
 - (2) **Increase the appropriation to the Public Works Department for Large Trash Capture Devices in the amount of \$2,000,000.**

CEQA: Public Project for the Citywide Large Trash Capture Device Installation, File No. PP15-081 dated September 1, 2015 is an Addendum to a Mitigated Negative Declaration for a previous project File No. PP08-257 adopted on 1/22/2009. Council Districts 2 and 7. (Public Works/City Manager)

2.19 (Cont'd.)

Documents Filed: Memorandum from Director of Public Works Barry Ng and Senior Deputy City Manager/Budget Director Jennifer A. Maguire, dated November 23, 2015, recommending approval of a construction contract to the low bidder and adoption of appropriation ordinance amendments.

Action: The award of a construction contract for the 6736 – Large Trash Capture Device Installation - Phase III Project to the low bidder, JMB Construction, Inc. in the amount of \$5,421,787, with related contingency, was approved; Ordinance No. 29673, entitled: “An Ordinance of the City of San José Amending Ordinance No. 29589 to Appropriate Monies in the Storm Sewer Capital Fund for Large Trash Capture Devices; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption”, was adopted. (11-0.)

- 2.20 (a) **Adopt a resolution adopting the Mitigated Negative Declaration prepared for the Project and a related mitigation monitoring and reporting program, in accordance with the California Environmental Quality Act.**
- (b) **Adopt a resolution by the City Council doing the following in accordance with San José Municipal Code Section 14.07.310:**
- (1) **Finding that the cost of the proposed design-build contract for the 60-inch Brick Interceptor Phase VI-A Project (“Project”) will exceed \$5,000,000, and the use of the design-build delivery method process is likely to save money and/or result in faster Project completion than if the City used the traditional design-bid-build method of project delivery.**
 - (2) **Approving the issuance of a Request for Proposals and the evaluation criteria and process by which the City shall select a design-build entity for the Project.**
 - (3) **Authorizing the Director of Public Works to issue addenda to the Request for Proposals to add any additional requirements or to make such other revisions to the Request for Proposals that are consistent with the scope and selection criteria as approved by Council.**
- (c) **Approve the Third Amendment to the Consultant Agreement with AECOM Technical Services by extending the term of the Agreement from December 31, 2015 to December 31, 2018, to enable AECOM to continue providing technical services to support delivery of the Project with no additional compensation.**

CEQA: Sewer Interceptor Phase VI-A Initial Study and Mitigated Negative Declaration, File No. PP10-160. Council Districts 3 and 4. (Public Works)

Documents Filed: Memorandum from Director of Public Works Barry Ng, dated November 23, 2015, recommending adoption of resolutions and approval of the Third Amendment to the Consultant Agreement.

2.20 (Cont'd.)

Action: Resolution No. 77626, entitled: "A Resolution of the Council of the City of San José Adopting the Sewer Interceptor Phase VI-A Project Mitigated Negative Declaration, For Which An Initial Study Was Prepared and A Related Mitigation Monitoring and Reporting Program, All in Accordance With the California Environmental Quality Act" and Resolution No. 77627, entitled: "A Resolution of the Council of the City of San José Finding That the Design-Build Procurement Process For the Design and Construction of the 60-Inch Brick Interceptor Phase Vi-A Project Will Save Money and Result in Faster Project Completion than if the City Used a Traditional Design-Bid-Build Project Delivery System, Approving the Issuance of a Request For Proposals and the Evaluation Criteria and Process by Which the City Shall Select a Design-Build Entity for the Project, and Authorizing the Director of Public Works to Issue Addenda to the Request For Proposals to Add any Additional Requirements and to Make Such Other Revisions to the Request For Proposals that are Consistent with the Scope and Selection Criteria As Approved by Council", were adopted; and the Third Amendment to the Consultant Agreement with AECOM Technical Services by extending the term of the Agreement from December 31, 2015 to December 31, 2018, to enable AECOM to continue providing technical services to support delivery of the Project with no additional compensation was approved. (11-0.)

- 2.21 Approve a Second Amendment to the Agreement with Siemens Industry, Inc. for TiMC system software design and implementation, to extend the term of the agreement from January 1, 2016 to June 30, 2018, amend the fee schedule to reflect current labor rates, and increase the total compensation from \$1,042,917 to \$1,092,734. CEQA: Not a Project, File No. PP10-066(a), Agreements and contracts for services that involve no physical changes to the environment. (Transportation)**

Documents Filed: City Council Action Request from Director of Transportation James Ortbal, dated November 24, 2015, recommending approval of a Second Amendment to the Agreement.

Action: A Second Amendment to the Agreement with Siemens Industry, Inc. for TiMC system software design and implementation, to extend the term of the agreement from January 1, 2016 to June 30, 2018, amend the fee schedule to reflect current labor rates, and increase the total compensation from \$1,042,917 to \$1,092,734, was approved. (11-0.)

- 2.22 Approve the Downtown San José Property-Based Business Improvement District Annual Financial Report for FY 2014-15. CEQA: Not a Project, File No. PP10-069(a), Annual Reports that involves no approval of City actions. Council District 3. (Transportation)**

Documents Filed: City Council Action Request from Director of Transportation James Ortbal, dated November 24, 2015, recommending approval of the Downtown San José Property-Based Business Improvement District Annual Financial Report for FY 2014-15.

2.22 (Cont'd.)

Action: The Downtown San José Property-Based Business Improvement District Annual Financial Report for FY 2014-15 was approved. (11-0.)

- 2.23 (a) Approve a Second Amendment to the Lease of Airport Premises between the City of San José and Sky Chefs, Inc. ("Sky Chefs") to:**
- (1) Extend the term of the Lease for one year with two renewal options of one year each.**
 - (2) Increase the Minimum Annual Guarantee (MAG) floor to be paid by Sky Chefs from \$500,000 to \$550,000 annually with an annual MAG adjustment made based on gross sales. In no event will the MAG be reduced below \$550,000 per year.**
- (b) Adopt a resolution authorizing the City Manager to negotiate and execute up to two one-year amendments to extend the term of the Lease through February 14, 2019 on the same terms and conditions.**

CEQA: Not a Project, File No. PP10-066(f), Lease of equipment or existing space for the same use and will involve no physical changes to the environment. (Airport)
(Deferred from 12/8/15 – Item 2.7)

Action: Deferred to January 12, 2016 per Orders of the Day.

- 2.24 Consideration of adoption of a resolution approving a Master Planned Development Permit to allow construction of up to 403 residential units and up to 5,000 square feet of retail space, the uses of the CIC Combined Industrial Commercial Zoning District, the demolition of three existing industrial buildings, and the removal of seven ordinance sized trees on an 11.43 gross acre site located on the northwest corner of North 10th Street and East Taylor Street. CEQA: Cannery Park/Hanover Project Mitigated Negative Declaration, File No. GP15-001. Council District 3. (Planning, Building and Code Enforcement)**
[Referred from 12/8/15 – Item 11.11(b)]

Documents Filed: See December 8, 2015 Agenda, Item 11.11 for the documents.

Action: Resolution No. 77628, entitled: "A Resolution of the Council of the City of San José Approving a Master Planned Development Permit, Subject to Conditions, To Allow Demolition of Approximately 242,000 Square Feet of Existing Industrial Buildings, the Construction of Up To 403 Residential Units and Up To 5,000 Square Feet of Retail Space, the Uses of the CIC Combined Industrial/Commercial Zoning District and the Removal of Seven Ordinance Sized Trees, On a 11.43 Acre Site, Located at the Northwest Corner of North 10th Street and East Taylor Street (357-395 East Taylor Street and 401-775 North 10th Street", was adopted. (11-0.)

END OF CONSENT CALENDAR

STRATEGIC SUPPORT SERVICES

- 3.3 Accept the Annual Report on City Services FY 2014-15. CEQA: Not a Project, File No. PP10-069(a), Annual reports that involve no approvals of City actions. (Auditor)**

Action: Deferred to January 12, 2016 per Rules and Open Government Committee.

- 3.4 Interview applicants and consider appointments to fill Two (2) Members-at-Large with terms ending December 31, 2019 on the Appeals Hearing Board. CEQA: Not a Project, File No. PP10-069(c), City Administrative Activities. (City Clerk)**

Action: Deferred to January 12, 2016 per Rules and Open Government Committee.

- 3.5 Interview applicants and consider appointments to fill two (2) Members-at-Large with terms ending November 30, 2019 on the Civil Service Commission. CEQA: Not a Project, File No. PP10-069(c), City Administrative Activities. (City Clerk)**

Action: Deferred to January 2016 per Orders of the Day.

- 3.7 (a) Adopt a resolution to:**

- (1) Approve the terms of the Federated Alternative Pension Reform Settlement Framework agreement ("Framework") between the City and bargaining units representing employees in the Federated City Employees' Retirement System ("Federated Bargaining Units"):**
 - (i) Association of Engineers and Architects, IFPTE Local 21 (AEA Units 41/42 and 43)**
 - (ii) Association of Legal Professional (ALP)**
 - (iii) Association of Maintenance Supervisory Personnel, IFPTE Local 21 (AMSP)**
 - (iv) City Association of Management Personnel, IFPTE Local 21 (CAMP)**
 - (v) Confidential Employees' Organization, AFSCME Local 101 (CEO)**
 - (vi) International Brotherhood of Electrical Workers, Local No. 332 (IBEW)**
 - (vii) Municipal Employees' Federation AFSCME Local 101 (MEF)**
 - (viii) International Union of Operating Engineers, Local No. 3 (OE#3)**
- (2) Authorize the City Manager to negotiate and execute a Retirement Memorandum of Agreement between the City and Federated Bargaining Units listed above.**
- (3) Approve the modifications for unrepresented employees in Unit 99 and Units 81/82 similar to those in the Federated Alternative Pension Reform Settlement Framework except for those provisions specified herein.**

3.7 (b) Adopt the following 2015-2016 Appropriation Ordinance amendments in the General Fund:

- (1) Increase the City-wide Measure B Settlement appropriation to the City Manager's Office in the amount of \$1,257,000.**
- (2) Decrease the Retiree Healthcare Solutions Reserve in the amount of \$1,257,000.**

CEQA: Not a Project, File No. PP10-069(b), Personnel Related Decisions. (City Manager)

Documents Filed: Memorandum from Director of Employee Relations Jennifer Schembri and Senior Deputy City Manager/Budget Director Jennifer A. Maguire, dated December 4, 2015, recommending adoption of a resolution and appropriation ordinance amendments.

City Manager Norberto Dueñas presented introductory remarks. Director of Employee Relations Jennifer Schembri provided the report.

Mayor Sam Liccardo thanked Staff for their extraordinary efforts.

Motion: Council Member Raul Peralez moved approval of the Staff recommendations. Council Member Chappie Jones seconded the motion.

Vice Mayor Rose Herrera and Council Members Ash Kalra, Manh Nguyen and Johnny Khamis expressed support to the motion on the floor.

Action: On a call for the question, the motion carried, Resolution No. 77629, entitled: "A Resolution of the Council of the City of San José Approving the Terms of the Federated Alternative Pension Reform Settlement Framework Agreement with Bargaining Units Representing Employees in the Federated City Employees' Retirement System and Authorizing the City Manager to Negotiate and Execute a Retirement Memorandum of Agreement With the Federated Bargaining Units and Approving Modifications for Unrepresented Employees in Unit 99 and Units 81/82 Similar to Those in the Federated Alternative Pension Reform Settlement Framework" and Ordinance No. 29674, entitled: "An Ordinance of the City of San José Amending Ordinance No. 29589 to Appropriate Monies in the General Fund for the Citywide Measure B Settlement; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption", were adopted. (10-1. Noes: Oliverio.)

3.9 As recommended by the Rules and Open Government Committee on December 2, 2015:

- (a) Direct the City Clerk to report on the feasibility of creating an electronic filing system for lobbyist tracking and reporting, which would automate the process in a way that provides immediate online disclosure upon submittal of reports.**
- (b) Direct the City Clerk to refine current lobbyist forms and add a section that differentiates the type of contact with elected officials and their Chiefs of Staff (i.e.: email, phone call, meeting, etc.).**

- 3.9 (c) **Direct the City Attorney to draft amendments to Title 12 referencing lobbyist reporting disclosures to:**
- (1) **Change reporting disclosures from quarterly to weekly, on every Monday after contact with elected officials/Chiefs of Staff, along with the annual registration report.**
 - (2) **Differentiate type of contact with elected officials/Chiefs of Staff in the report (i.e. email, phone call, meeting, etc.).**
 - (3) **Amend section 12.12.800 to clarify requirements for disclosure of all scheduled meetings and scheduled telephone conversations with registered lobbyists.**
- (d) **Direct the Ethics Commission to recommend revisions to the Gift Ordinance to better align with the State gift rules and simplify the compliance with conflicting rules.**

CEQA: Not a Project, File No. PP10-069 City Administrative activities that involve no approvals of any City action. (Mayor)

Documents Filed: (1) Memorandum from City Clerk Toni J. Taber, CMC, dated December 3, 2015, transmitting the recommendations of the Rules and Open Government Committee and the memorandum from Mayor Sam Liccardo, dated November 19, 2015, regarding the Mayor's 2015 Biennial Ethics Review and Recommendations listed previously in Item 3.9(a)-(c). (2) Memorandum from Council Member Johnny Khamis, dated December 10, 2015, recommending acceptance of the Rules and Open Government Committee recommendations with further direction to the Ethics Commission. (3) Memorandum from City Attorney Richard Doyle, dated December 7, 2015, providing disclosure requirements of Elected Officials and Lobbyists. (4) Letter from Patricia Gardner, Executive Director, Silicon Valley Council of Nonprofits (SVCN), dated December 7, 2015, providing information on how nonprofits are already regulated.

Motion: Vice Mayor Rose Herrera moved approval of the memorandum from Mayor Sam Liccardo, dated November 19, 2015, regarding the Mayor's 2015 Biennial Ethics Review and Recommendations, as recommended by the Rules and Open Government Committee and described in detail in "Action" on Page 23. Council Member Chappie Jones seconded the motion.

Vice Mayor Rose Herrera pointed out that the memorandum from Mayor Sam Liccardo was complete, expressed appreciation for the recommendations and was optimistic that a cost effective way to implement the submission of the forms can be established.

Extensive Council discussion ensued.

Council Member Johnny Khamis provided background from his memorandum dated December 10, 2015.

Mayor Sam Liccardo pointed out that the memorandum from Council Member Johnny Khamis was on the floor for discussion.

Council Member Ash Kalra expressed support to the motion on the floor.

3.9 (Cont'd.)

Mayor Sam Liccardo opened the floor for public testimony.

Public Comments: Rich De La Rosa, Forest Consulting, suggested adding the ability to report immediately, include cumulative reporting, online payment of fees and acceptance of an electronic signature.

Mayor Sam Liccardo and Vice Mayor Rose Herrera expressed appreciation to the suggestions from Mr. De La Rosa.

Council Member Manh Nguyen expressed his support to the recommendations contained in the memorandum from Council Member Johnny Khamis.

Council Member Johnny Khamis requested to amend the motion and approve his memorandum dated December 10, 2015, recommending acceptance of the Rules and Open Government Committee recommendations with further direction to the Ethics Commission. Vice Mayor Rose Herrera respectfully declined to accept the amendment.

Action: On a call for the question, the motion carried, the memorandum from Mayor Sam Liccardo, dated November 19, 2015, was approved, the direction was approved as described previously above in Item 3.9(a)-(d). Staff was directed to return to Council in February 2016 with an update. (10-1. Noes: M. Nguyen.)

ADJOURNMENT

Mayor Sam Liccardo adjourned the morning Council session at 1:00 p.m.

RECESS/RECONVENE

The City Council recessed at 1:00 p.m. from the afternoon Council Session and reconvened at 1:36 p.m. in the Council Chamber, City Hall.

Present: Council Members - Carrasco, Herrera, Jones, Kalra, Khamis, M. Nguyen, T. Nguyen, Oliverio, Peralez, Rocha; Liccardo.

Absent: Council Members - All Present.

STRATEGIC SUPPORT SERVICES

3.6 (a) Approve new items for the Council Priority list.

(b) Rank items on Council Priority list.

CEQA: Not a Project, File No. PP10-069, City Organizational and Administrative Activities that involve no approvals of any city action. (City Manager)

Documents Filed: (1) Memorandum from Mayor Sam Liccardo, Vice Mayor Rose Herrera and Council Member Raul Peralez, dated November 25, 2015, recommending developing a Housing Rehabilitation Program. (2) Memorandum from Council Member Raul Peralez, dated November 18, 2015, recommending actions for the development of a Downtown Storefront Initiative. (3) Memorandum from Council Member Raul Peralez, dated December 11, 2015, recommending a San José Urban Agriculture Incentive Zones Ordinance. (4) Memorandum from Council Member Chappie Jones, dated December 4, 2015, recommending modifying the priority setting process so that items added to the list of Nominated Ideas are ranked and organized into subgroups by the City department responsible for each item and ranked within that subgroup. (5) Memorandum from Council Member Magdalena Carrasco, dated November 19, 2015, recommending direction to the City Manager's Office to explore a Private Percent for Art Ordinance. (6) Memorandum from Assistant City Manager David Sykes, dated November 23, 2015, recommending approval of the new items for the Council Priority List and ranking items. (7) Supplemental memorandum from Assistant City Manager David Sykes, dated December 10, 2015, providing a list of Nominated Ideas and the list of current Council Priorities. (8) Supplemental memorandum from Assistant City Manager David Sykes, dated December 14, 2015, correcting an administrative error to the voting process and answers questions that have emerged since the original Staff Report was issued; Sample Ballots are included. (9) Memorandum from City Clerk Toni J. Taber, CMC to Deputy City Clerk/Legislative Secretary Susan Davis, dated December 15, 2015, providing a public record for the Council Vote. (10) Individual votes from the Mayor and Council Members dated December 15, 2015. (11) Twenty one letters and correspondence from the public, dated December 15, 2015, expressing suggestions and comments.

Assistant City Manager David Sykes offered a brief update.

Mayor Sam Liccardo opened the floor for public testimony.

3.6 (Cont'd.)

Public Comments: Expressing support to Mayor Sam Liccardo and the Veteran's Housing Fund were Karl Darr, Goodwill of Silicon Valley; Omar Teutle, Veterans' Voices of Santa Clara County; Katherine Harasz, The Housing Authority; Francis McVey, The United Veterans Council and Richard McCoy.

Kymerli Ready, San José Downtown Residents Association and Laura Tolkoff, SPUR expressed comments to the Downtown Storefronts Initiative and Urban Agriculture. Peter Allen expressed his interest in Public Art.

Expressing support to the San José Urban Agriculture incentive were Pam Oliverio, Erin Healy, The Health Trust; Jamie Chen, Clarissa Cua, Martha Barahona, Olga Loya, Lorinda Farfan and Sandi Taylor, La Mesa Verde; Manual Perez, Maria Espinoza, Zach Lewis, Garden To Table; Beverly Bachoo, Sacred Heart and Debra Hernandez.

Mayor Sam Liccardo suggested expanding the Veteran's Housing Fund to Housing Rehabilitation Program/Homeless Veterans Voucher.

Council discussion ensued.

Action: The ranking is indicated below.

<u>POLICY NAME</u>	<u>TOTAL VOTES*</u>
(1) Housing Rehabilitation Program/Homeless Veterans Voucher	20
(2) Downtown Active Storefronts Initiative	12
(3) San José Urban Agriculture Incentive	10
(4) Gender Pay Equity	7
(5) Disadvantaged Business Enterprises	5
(6) Electronic Billboards	4
(7) Graywater Systems	2
(8) Surplus Land Sale	2
(9) Downtown and/or Citywide Parks Operations/Maintenance Financing Dist.	1
(10) North San José Policy Review	1
(11) Peddler Permits Enforcement/Outdoor Mobile Vendor Policy	1
(12) San José is Open for Business/Legal Nonconforming Uses	1
(13) Development Agreement Policy	0
(14) Food and Clothing Distribution at City Parks	0
(15) Off-Sale of Alcohol at Grocery Stores Streamlining	0
(16) Real Estate Transactions Streamlining (Phase 3)	0
(17) Zoning Ordinance Quarterly Modifications	0

**Individual votes by the Mayor and Council Members are available on the City Clerk website link: http://sanjose.granicus.com/GeneratedAgendaViewer.php?event_id=032c1a8c-300a-4a75-9181-819a83083bd8*

3.11 Approve the Michael Johnson Memorial Highway signage project, to be located along Highway 87 in downtown San José. CEQA: Not a Project, File No. PP10-069(c), City Administrative Activities. (Police)

Documents Filed: Memorandum from Chief of Police Larry Esquivel, dated December 9, 2015, recommending approval of the Michael Johnson Memorial Highway Project and to ensure that the memorial sign can be fabricated and installed prior to March 24, 2016, the one year anniversary of the passing of Michael Johnson.

Mayor Sam Liccardo opened the floor for public testimony.

Public Comments: Assembly Member Nora Campos pointed out Officer Johnson was killed in the line of duty while serving this community in San José and nothing can replace the loss both his family and this City has endured; however these signs will act as a reminder of his service and his sacrifice for this great City. Assembly Member Campos thanked Mayor Liccardo and the Council for their leadership.

Mayor Sam Liccardo thanked Assembly Member Nora Campos and acknowledged her hard work on this endeavor.

Brief Council discussion ensued.

Council Member Ash Kalra declared that the memorial sign is an excellent tribute to Michael Johnson.

Motion: Council Member Raul Peralez moved approval of the Staff recommendations. Council Member Ash Kalra seconded the motion.

Council Member Johnny Khamis noted that it has been an honor knowing Katherine Decker, Michael Johnson's Mother, who was obviously traumatized by experiencing the loss of her son.

Katherine Decker thanked Mayor Sam Liccardo, the Council and Assembly Member Nora Campos for honoring her son.

Mayor Sam Liccardo acknowledged and thanked Ms. Decker for coming to the City Council Meeting.

Vice Mayor Rose Herrera thanked Assembly Member Nora Campos for introducing this resolution to designate a portion State Highway Route 87 in honor of Michael Johnson.

Action: On a call for the question, the motion carried unanimously, the Michael Johnson Memorial Highway Signage Project to be located along Highway 87 in downtown San José was approved. (11-0.)

- 3.8 (a) **Hold a Tax Equity and Fiscal Responsibility Act (“TEFRA”) Hearing for the issuance of \$20,000,000 of tax-exempt 501(c)(3) revenue bonds by the California Municipal Finance Authority (“CMFA”).**
- (b) **Consider adoption of a resolution approving the issuance of tax-exempt revenue bonds, by the CMFA in an aggregate principal amount not to exceed \$20,000,000 to finance: (1) the acquisition, construction and/or equipping of certain educational facilities to be owned and operated by the Borrower and to be located in the City at 500 Saratoga Avenue, San José, California and (2) certain expenses incurred in connection with the issuance of the Bonds (collectively, the “Project”).**

CEQA: Exempt, Guidelines Section 15061(b)(3), No potential for causing a significant effect on the environment. Council District 1. (Finance)

Documents Filed: Memorandum from Director of Finance Julia H. Cooper, dated November 23, 2015, recommending holding a TEFRA Hearing and adoption of a resolution.

Mayor Sam Liccardo opened the Tax Equity and Fiscal Responsibility Act Public Hearing.

Public Comments: There was no public testimony from the floor. Mayor Sam Liccardo closed the Tax Equity and Fiscal Responsibility Act Public Hearing.

Action: Upon motion by Council Member Raul Peralez, seconded by Vice Mayor Rose Herrera and carried unanimously, Resolution No. 77630, entitled: “A Resolution of the Council of the City of San José Approving the Issuance of the California Municipal Finance Authority Revenue Bonds in an Aggregate Principal Amount Not To Exceed \$20,000,000 For the Purpose of Financing the Acquisition, Construction and Equipping of Certain Educational Facilities and Certain Other Matters Related Thereto”, was adopted. (11-0.)

- 3.10 **As recommended by the Salary Setting Commission, approve an ordinance establishing the following salaries and benefits for the Mayor and City Council for the next two Fiscal Years, the period July 1, 2015 through June 30, 2017:**

- (a) **For the Mayor, increase the authorized salary from \$114,000 annually to \$125,000 annually.**
- (b) **For each Council Member, increase the authorized salary from \$81,000 annually to \$92,000 annually.**
- (c) **Retain the levels of health, dental, life insurance and other benefits in accordance with the benefits provided to management employees in Unit 99.**
- (d) **Retain the current retirement benefits offered under the CalPERS Tier 2 Plan and the PTC 457 Defined Contribution Plan.**
- (e) **Increase the vehicle allowance from \$350 per month to \$500 per month for the Mayor and each member of the City Council.**

- 3.10 (f) Continue to require Council Members to pay \$250 for each unexcused absence at scheduled Council meetings, pursuant to City Charter Section 407.

CEQA: Not a Project, File No. PP10-069(c), City Administrative Activities that involve no approvals of any City actions. (City Clerk)
(Deferred from 5/19/15 – Item 3.3 and 6/23/15 – Item 3.21)

Action: Deferred to January 2016 per Orders of the Day.

- 3.12 As recommended by the Public Safety, Finance, and Strategic Support Committee on December 10, 2015, accept the Comprehensive Annual Financial Report for the City of San José for Fiscal Year 2014-2015. **CEQA: Not a Project, File No. PP10-069(c), City Administrative Activities. (Finance)**

Items 3.12, 3.13, 3.14 and 9.2 were heard concurrently.

Documents Filed: Memorandum from City Clerk Toni J. Taber, CMC, dated December 11, 2015, transmitting the recommendations of the Public Safety, Finance and Strategic Support Committee.

City Auditor Sharon W. Erickson provided introductory remarks. Director of Finance Julia H. Cooper, Deputy Director of Finance Grace Martinez and Assistant Director of Finance Derek Hansel presented the reports.

Brief Council discussed ensued.

Action: Upon motion by Council Member Johnny Khamis, seconded by Council Member Pierluigi Oliverio and carried unanimously, the Comprehensive Annual Financial Report for the City of San José for Fiscal Year 2014-2015 was accepted. (11-0.)

- 3.13 As recommended by the Public Safety, Finance, and Strategic Support Committee on December 10, 2015:

- (a) Accept the Single Audit Report for the Basic Financial Statements with Federal and Airport Compliance Sections for the Year Ended June 30, 2015.
- (b) Accept the External Auditor's Report to Management addressed to the Public Safety, Finance, and Strategic Support Committee for the Year Ended June 30, 2015.

CEQA: Not a Project, File No. PP10-069(c), City Administrative Activities. (Finance)

Documents Filed: Memorandum from City Clerk Toni J. Taber, CMC, dated December 11, 2015, transmitting the recommendations of the Public Safety, Finance and Strategic Support Committee.

3.13 (Cont'd.)

Action: Upon motion by Council Member Johnny Khamis, seconded by Council Member Pierluigi Oliverio and carried unanimously, the Single Audit Report for the Basic Financial Statements with Federal and Airport Compliance Sections for the Year Ended June 30, 2015 and the External Auditor's Report to Management addressed to the Public Safety, Finance, and Strategic Support Committee for the Year Ended June 30, 2015, were accepted. (11-0.)

- 3.14 As recommended by the Public Safety, Finance, and Strategic Support Committee on December 10, 2015, accept the Comprehensive Annual Debt Report for the City of San José for Fiscal Year 2014-2015. CEQA: Not a Project, File No. PP10-069(c), City Administrative Activities. (Finance)
Accepted.**

Documents Filed: Memorandum from City Clerk Toni J. Taber, CMC, dated December 11, 2015, transmitting the recommendations of the Public Safety, Finance and Strategic Support Committee.

Action: Upon motion by Council Member Johnny Khamis, seconded by Council Member Pierluigi Oliverio and carried unanimously, the Comprehensive Annual Debt Report for the City of San José for Fiscal Year 2014-2015 was accepted. (11-0.)

REDEVELOPMENT – SUCCESSOR AGENCY

Items 3.12, 3.13, 3.14 and 9.2 were heard concurrently.

- 9.2 Accept the Fiscal Year 2014-2015 Independent Auditor's Reports and Basic Financial Statements for the Successor Agency to the Redevelopment Agency of the City of San José. CEQA: Not a Project. File No. PP10-069(a), Organizational and Administrative Activities that involve no approvals of any City actions. (Successor Agency)**

Documents Filed: Memorandum from Director of Finance Julia H. Cooper, dated November 23, 2015, recommending acceptance of the reports.

Action: Upon motion by Council Member Johnny Khamis, seconded by Council Member Pierluigi Oliverio and carried unanimously, the Fiscal Year 2014-2015 Independent Auditor's Reports and Basic Financial Statements for the Successor Agency to the Redevelopment Agency of the City of San José were accepted. (11-0.)

COMMUNITY & ECONOMIC DEVELOPMENT

4.1 Adopt a resolution to approve a North San José Area Development Policy amendment to:

- (a) Extend the deadline to qualify for reduced North San José Traffic Impact Fee under the Near-Term Industrial Development Incentive Program by two years to December 31, 2017.
- (b) Revise the criteria to qualify as a low intensity industrial use with traffic impact fee collectible based on trip generation of the use rather than building square footage.

CEQA: North San José Development Policies Update Final Program EIR and Addenda thereto (Resolution No. 72768) (Economic Development/Planning, Building and Code Enforcement/Transportation)

Documents Filed: (1) Memorandum from Mayor Sam Liccardo and Council Members Raul Peralez, Manh Nguyen, Magdalena Carrasco and Tam Nguyen, dated December 11, 2015, recommending approval of the recommendations as outlined in the Staff Report dated November 23, 2015, as described above in 4.1(a)(b). (2) Memorandum from Council Member Donald Rocha, dated December 14, 2015, recommending approval of the Staff recommendations as it relates to the extension of North San José Traffic Impact Fee Incentive Program in the memorandum dated November 23, 2015 and to request the City Manager to schedule a Study Session regarding the North San José Area Development Policy. (3) Memorandum from Deputy City Manager/Director of Economic Development Kim Walesh, Director of Planning, Building and Code Enforcement Harry Freitas and Director of Transportation James Ortbal, dated November 23, 2015, providing recommendations as described above in 4.1(a)(b).

Mayor Sam Liccardo pointed out that the request for a Study Session on the North San José Area Development Policy would come forward to the Rules and Open Government Committee.

Assistant Director of Economic Development Nanci J. Klein and Senior Business Development Manager Chris Burton responded to Council questions and concerns.

Action: Upon motion by Council Member Manh Nguyen, seconded by Council Member Raul Peralez and carried unanimously, Resolution No. 77631, entitled: "A Resolution of the Council of the City of San José Amending the North San José Area Development Policy Related to Reduced Traffic Impact Fees to (1) Extend the Deadline Under the Near Term Industrial Development Incentive Program To Obtain All Planning and Building Approvals to End of 2017 and To Complete Construction To No Later Than End of 2019; and (2) Revise the Criteria to Quality As a Low Intensity Industrial Use With Traffic Impact Fee Collectible Based on Trip Generation of the Use Rather Than the Building Square Footage", was adopted. Staff was directed to return to Council in February 2016 with a comprehensive update and/or study session. (11-0.)

- 4.2 (a) Hold a Public Hearing and take public comment on a Substantial Amendment to the City's Program Year FY 2015-16 Annual Action Plan to:
- (1) Reduce the Unallocated Fund balance of Community Development Block Grant (CDBG) funds from \$2,000,000 to \$1,267,683 in the adopted 2015-16 Annual Action Plan to reallocate to previously approved Community Facility Rehabilitation Projects.
 - (2) Increase funding for the following CDBG funded Community Facility Projects from project carryover funds from the FY 2014-15 Adopted Annual Action Plan:
 - (a) Educare Play Structure Installation - Invest an additional \$250,000 in CDBG funds to complete the installation of the play structure;
 - (b) Rehabilitation of the former Head Start building - Invest an additional \$260,000 in CDBG funds to complete rehabilitation of the building which will provide a community hub in the Santee neighborhood.
 - (c) Recovery Café Rehabilitation project - Invest an additional \$434,189 in CDBG funds to complete rehabilitation of the social hall, commercial kitchen, classrooms, bathrooms, and ADA ramps.
 - (3) Add \$238,913 of Emergency Solutions Grant (ESG) funds from previous year balances to support services for homeless individuals and families.
 - (4) Make an administrative adjustment to move \$211,872 of CDBG funding for the San José Streets Team (SJST) from the Encampment and Place-based Clean-Up Project to the Services for Homeless and Unhoused Populations project.
- (b) Adopt a resolution approving the Substantial Amendment to the FY 2015-16 Annual Action Plan.

CEQA: Exempt, Guidelines Section 15061(b)(3) No potential for causing a significant effect on the environment. (Housing)

Documents Filed: (1) Memorandum from Director of Housing Jacky Morales-Ferrand, dated November 23, 2015, recommending holding a public hearing and adoption of a resolution. (2) Proof of Publication of Notice of Public Hearing, executed on November 27, 2015, submitted by the City Clerk.

Mayor Sam Liccardo opened the Public Hearing.

Public Comments: There was no public testimony from the floor. Mayor Sam Liccardo closed the Public Hearing.

Action: Upon motion by Council Member Raul Peralez, seconded by Vice Mayor Rose Herrera and carried unanimously, Resolution No. 77632, entitled: "A Resolution of the Council of the City of San José Approving the Substantial Amendment to the Fiscal Year 2015-16 Annual Action Plan", was adopted. (11-0.)

4.3 Adopt a resolution:

- (a) Authorizing the Director of Housing, on behalf of the City, to negotiate and execute a purchase and sale agreement to acquire the Plaza Hotel, located at 96 South Almaden Boulevard, from the Successor Agency to the Redevelopment Agency of the City of San José for \$750,000 from the Community Development Block Grant Fund for the purposes of housing the homeless for a duration of five years.**
- (b) Authorizing the Director of Housing to negotiate and execute all other legal documents in order to effectuate the acquisition.**

CEQA: Exempt, Guidelines Section 15301(a)(d). Existing Facilities, File No. PP15-078. Council District 3. (Housing)

Documents Filed: (1) Memorandum from Mayor Sam Liccardo, Vice Mayor Rose Herrera and Council Members Raul Peralez, Magdalena Carrasco and Donald Rocha, dated December 11, 2015, recommending adoption of a resolution. (2) Memorandum from Director of Housing Jacky Morales-Ferrand, dated November 23, 2015, recommending adoption of a resolution.

Senior Executive Analyst Patrick Heisinger responded to Council questions and concerns.

Action: Upon motion by Council Member Raul Peralez, seconded by Vice Mayor Rose Herrera and carried unanimously, Resolution No. 77633, entitled: “A Resolution of the Council of the City of San José Authorizing the Director of Housing To Negotiate and Execute A Purchase and Sale Agreement To Acquire The Plaza Hotel and To Negotiate and Execute All Legal Documents In Order to Effectuate the Acquisition”, was adopted. (11-0.)

- 4.4**
- (a) Accept the research report from staff on a potential Commercial Impact Fee Nexus Study and Feasibility Study to support the development of affordable housing.**
 - (b) Discuss and provide direction to staff regarding next steps for a potential Nexus Study and Feasibility Study.**

CEQA: Not a Project, File No. PP10-069(a), Reports that involve no approvals of any City actions. (Housing/Economic Development/ Planning, Building and Code Enforcement)

Documents Filed: (1) Memorandum from Mayor Sam Liccardo, Vice Mayor Rose Herrera and Council Members Chappie Jones and Manh Nguyen, dated December 11, 2015, recommending acceptance of the CIF research report, postpone undertaking a Nexus and Feasibility Study and direction to Staff as described in detail in “Action” on Page 33. (2) Memorandum from Council Members Donald Rocha, Kalra, Peralez and Carrasco, dated December 11, 2015, recommending acceptance of the CIF research report with further direction to Staff. (3) Memorandum from Director of Housing Jacky Morales-Ferrand, Director of Planning, Building and Code Enforcement Harry Freitas

4.4 (Cont'd.)

Documents Filed: (Cont'd.) and Deputy City Manager/Director of Economic Development Kim Walesh, dated November 23, 2015, recommending acceptance of this research report and to discuss and provide direction to Staff for next steps. (4) Letter from Emmett D. Carson, Ph.D., CEO and President, Silicon Valley Community Foundation, dated December 11, 2015, regarding a potential Commercial Impact Fee Nexus Study and Feasibility Study to support the development of affordable housing.

Deputy City Manager/Director of Economic Development Kim Walesh offered a brief report.

Mayor Sam Liccardo opened the floor for public testimony.

Public Comments: Providing comments and suggestions regarding a potential Commercial Impact Fee Nexus Study and Feasibility Study to support the development of affordable housing were Pat Sausedo, NAIOP, Silicon Valley; Pilar Lorenza-Campo, Silicon Valley At Home; Wendy Ho, United Way of Silicon Valley; Colleen Haley, Destination: Home; Matthew Reed, Phil Olmstead, Pancho Guevara, Sacred Heart Housing Action Team; Moria Merriweather, Tomio Hayase-Izu, Eunice Hernandez, Sacred Heart Community Service; Kevin Zwick, Shaunn Cartwright, Phil Mastrocola, Charisse Ma Lebron, Working Partnerships USA and Scott Knies, San José Downtown Association.

Motion: Vice Mayor Rose Herrera moved approval of the memorandum she cosigned with Mayor Sam Liccardo and Council Members Chappie Jones and Manh Nguyen, dated December 11, 2015. Council Member Chappie Jones seconded the motion.

Substitute Motion: Council Member Donald Rocha moved approval of the memorandum he cosigned with Council Members Kalra, Peralez and Carrasco, dated December 11, 2015. Council Member Raul Peralez seconded the motion.

Deputy City Manager/Director of Economic Development Kim Walesh responded to Council questions and concerns.

On a call for the question, the substitute motion failed. (4-7. Noes: Herrera, Jones, Khamis, M. Nguyen, T. Nguyen, Oliverio; Liccardo.)

Council Member Raul Peralez requested to amend the original motion to strike out the words *until San José achieves a 1:1 Jobs/Employed Resident Ratio* contained in Item (1), the memorandum from Mayor Sam Liccardo, Vice Mayor Rose Herrera and Council Members Chappie Jones and Manh Nguyen, dated December 11, 2015. The amendment was accepted by Vice Mayor Rose Herrera and Council Member Chappie Jones.

4.4 (Action Cont'd.)

Action: On a call for the question, the original amended motion carried, the revised memorandum from Mayor Sam Liccardo, Vice Mayor Rose Herrera and Council Members Jones and Carrasco, dated December 11, 2015, was approved, accepting the Commercial Impact Fee (CIF) research report, including the following: (1) Postpone undertaking a Nexus and Feasibility Study for a ~~CIF until San José achieves a 1:1 Jobs/Employed-Resident Ratio~~. (2) Direct Staff to explore with the Silicon Valley Community Foundation, SPUR and other regional partners, and study how a regional fee structure or revenue-sharing might best address the need for affordable housing within the context of the widening jobs-housing imbalance within the region. These efforts should focus on regional solutions to mitigate the various impacts of that imbalance, including rising housing costs, widening service level inequities, freeway congestion and greenhouse gas emissions. (7-4. Noes: Carrasco, Kalra, Peralez, Rocha.)

- 4.5 (a) **Consider the Addendum to the San José Downtown Strategy 2000 Final Environmental Impact Report (Resolution No. 72767) and Diridon Station Area Plan Final Environmental Impact Report (Resolution No. 77096) in accordance with the California Environmental Quality Act.**
- (b) **Consideration of an ordinance rezoning the real property from the LI Light Industrial Zoning District to the DC Downtown Primary Commercial Zoning District to allow commercial use on a 0.17 gross acre site, located on the east side of S. Montgomery, between The Alameda and W. San Fernando Street (50 S. Montgomery St.) (Ilya Neizvestny, Owner). Planning Commission recommends approval (6-0-1) (Bit-Badal absent).**

CEQA: Addendum to the San José Downtown Strategy 2000 Final EIR (Resolution No. 72767) and the Diridon Station Area Plan Final EIR (Resolution No. 77096). File No. C15-014 – Council District 6. (Planning, Building, and Code Enforcement)

Documents Filed: (1) Memorandum from Planning Commission Secretary Harry Freitas, dated November 23, 2015, transmitting the Planning Commission recommendation. (2) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. C15-014 dated November 9, 2015. (3) Proof of Publication of Notice of Public Hearing, executed on October 30, 2015, submitted by the City Clerk.

Action: Upon motion by Council Member Pierluigi Oliverio, seconded by Vice Mayor Rose Herrera and carried unanimously, the Addendum to the San José Downtown Strategy 2000 Final Environmental Impact Report (Resolution No. 72767) and Diridon Station Area Plan Final Environmental Impact Report (Resolution No. 77096) in accordance with the California Environmental Quality Act was approved and Ordinance No. 29675, entitled: “An Ordinance of the City of San José Rezoning Certain Real Property of Approximately 0.17 Acre Situated On The East Side of South Montgomery Street, Between (50 South Montgomery Street) from LI Light Industrial Zoning District to the DC Downtown Primary Commercial Zoning District”, was passed for publication. (11-0.)

- 4.6 Accept the staff report related to exploring a pilot sanctioned encampment in San José and provide direction to staff.

CEQA: Not a Project, File No. PP10-069(a), Staff Reports that involve no approvals of any City actions. (Housing)

[Council Referral 12/01/15 – Item 4.6 and 12/08/15 – Item 4.4]

Action: Item 4.6 was dropped.

TRANSPORTATION & AVIATION SERVICES

Items 6.1, 6.2 and 6.3 were heard concurrently.

- 6.1 Adopt a resolution revising the airline support program to facilitate the development of new air service at the Norman Y. Mineta San José International Airport (SJC) by removing the airline matching requirement on new air service marketing funds expended by the City, increasing the new air service marketing funds to be expended by the City, authorizing the Director of Aviation to waive the requirement for an airline to repay waived fees and marketing expenditures in the event of early termination of service, authorizing the Director of Aviation to determine application of the support program for additional frequencies on international routes in extenuating circumstances, and repealing Resolution No. 77099. CEQA: Determination of Consistency with the San José International Airport Master Plan (resolution No. 67380) and the Norman Y. Mineta San José International Airport Master Plan Update Final Supplemental EIR (Resolution No. 71451), File No. PP09-192. (Airport)

Documents Filed: (1) Memorandum from Mayor Sam Liccardo, Council Members Jones, Perales, Carrasco and Khamis, dated December 11, 2015, recommending approval of the recommendations outlined in the reported dated November 25, 2015 related to Items 6.1, 6.2 and 6.3. (2) Memorandum from Director of Aviation Services Kimberly J. Becker, dated November 25, 2015, recommending adoption of a resolution.

Director of Aviation Services Kimberly J. Becker presented the reports and responded to Council questions and concerns on Items 6.1, 6.2 and 6.3.

Mayor Sam Liccardo requested the following direction to Staff be accepted by the maker of the motion and the seconder: to only allow the elements of the policy (Item 6.1) to continue until the Budget Process and in the Spring Council will reconsider/evaluate and may terminate those elements of the plan, and determine what if any, other conditions the Council may want to have in their incentive program in the context of San José budgetary needs of the Airport in June 2016.

6.1 (Cont'd.)

Motion: Council Member Raul Peralez moved approval of the memorandum he cosigned with Mayor Sam Liccardo and Council Members Jones, Carrasco and Khamis, dated December 11, 2015, recommending approval of the recommendations outlined in the reported dated November 25, 2015 related to Items 6.1, 6.2 and 6.3 and the additional direction from Mayor Sam Liccardo as described below in "Action". Vice Mayor Rose Herrera seconded the motion.

Brief discussion ensued.

Action: On a call for the question, the motion carried unanimously, the memorandum from Mayor Sam Liccardo and Council Members Jones, Peralez, Carrasco and Khamis, dated December 11, 2015, was approved, accepting the recommendations outlined in the reports dated November 25, 2015 related to Items 6.1, 6.2 and 6.3. Staff was directed to only allow the elements of the policy (Item 6.1) to continue until the Budget Process and in the Spring Council will reconsider/evaluate and may terminate those elements of the plan, and determine what if any, other conditions the Council may want to have in their incentive program in the context of San José budgetary needs of the Airport in June 2016 and Resolution No. 77634, entitled: "A Resolution of the Council of the City of San José Revising the City's New Air Service Support Program to Support the Development of New Air Service at the Norman Y. Mineta San José International Airport By Removing the Airline Matching Requirement on New Air Service Marketing Funds Expended by the City, Increasing the New Air Service Marketing Funds To Be Expended by the City, Authorizing the Director of Aviation To Waive the Requirement for An Airline to Replay Waived Fees and Marketing Expenditures in the Event of Early Termination of Service Due to Extenuating Circumstances and Repealing Resolution No. 77099", was adopted. (10-0-1. Absent: Carrasco.)

- 6.2
- (a) **Conduct a Public Hearing pursuant to California Government Code Section 53083 regarding economic development subsidies to be provided to Southwest Airlines, Alaska Airlines, British Airways and Lufthansa German Airlines pursuant to the City's Air Service Support Program.**
 - (b) **Adopt a resolution authorizing the City Manager or his designee to provide the following economic development subsidies pursuant to the City's Air Service Support Program:**
 - (1) **Southwest Airlines:**
 - (a) **Waive landing fees for 18 months after the initial operation at an approximate value of \$150,669.**
 - (2) **Alaska Airlines:**
 - (a) **Waive landing fees for 12 months after the initial operation at an approximate value of \$47,036.**
 - (b) **City will provide marketing funds of up to \$25,000.**

- 6.2 (b) (3) **British Airways:**
- (a) Waive landing fees at 100% for 18 months after the initial operation and 50% for the next 12 months at an approximate value of \$660,833.
 - (b) Waive ticket counter fee at 100% for 18 months after the initial operation and 50% for the next 12 months at an approximate value of \$770,880.
 - (c) Waive gate fee at 100% for 18 months after the initial operation and 50% for the next 12 months at an approximate value of \$402,960.
 - (d) City will provide marketing funds of up to \$600,000.
- (4) **Lufthansa German Airlines:**
- (a) Waive landing fees at 100% for 18 months after the initial operation and 50% for the next 12 months at an approximate value of \$465,758.
 - (b) Waive ticket counter fee at 100% for 18 months after the initial operation and 50% for the next 12 months at an approximate value of \$551,232.
 - (c) Waive gate fee at 100% for 18 months after the initial operation and 50% for the next 12 months at an approximate value of \$288,144.
 - (d) City will provide marketing funds of up to \$600,000.
- (c) **Adopt the following 2015-2016 Appropriation Ordinance Amendments in the Airport Maintenance and Operation Fund:**
- (1) Increase the appropriation to the Airport Department for Non-Personal/Equipment by \$1,225,000; and
 - (2) Decrease the appropriation to the Airport Department for Operations Contingency by \$1,225,000.

CEQA: Determination of Consistency with the San José International Airport Master Plan (Resolution No. 67380) and the Norman Y. Mineta San José International Airport Master Plan Update Final Supplemental EIR (Resolution No. 71451) File No. PP09-192. (Airport/City Manager)

Documents Filed: Memorandum from Director of Aviation Services Kimberly J. Becker and Senior Deputy City Manager/Budget Director Jennifer A. Maguire, dated November 25, 2015, recommending conducting a public hearing, adoption of a resolution and appropriation ordinance amendments.

Mayor Sam Liccardo opened the Public Hearing.

Public Comments: There was no public testimony from the floor. Mayor Sam Liccardo closed the Public Hearing.

6.2 (Cont'd.)

Action: Upon motion by Council Member Raul Peralez, seconded by Vice Mayor Rose Herrera and carried unanimously, the memorandum from Mayor Sam Liccardo and Council Members Jones, Peralez, Carrasco and Khamis, dated December 11, 2015, was approved, accepting the recommendations outlined in the reports dated November 25, 2015 related to Items 6.1, 6.2 and 6.3 was approved and Resolution No. 77635, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager To Provide Economic Subsidies to Southwest Airlines, Alaska Airlines, British Airways and Lufthansa German Airlines, Pursuant to the New Air Service Support Program at the Norman Y. Mineta San José International Airport" and Ordinance No. 29676, entitled: "An Ordinance of the City of San José Amending Ordinance No. 29589 to Appropriate Monies in the Airport Maintenance and Operation Fund for the Non-Personal/Equipment Appropriation to the Airport Department; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption", were adopted. (10-0-1. Absent: Carrasco.)

6.3 **Approve a Third Amendment to the Master Consultant Agreement for Airport marketing services with Civilian, Inc. (formerly AdEase), to increase the compensation by \$1,200,000, from \$8,220,000 to an amount not to exceed \$9,420,000, to provide funds for a marketing program with British Airways and a marketing program with Lufthansa Airlines. CEQA: Not a Project, File No. PP10-066, Agreements and contracts for services that involve no physical change to the environment. (Airport)**

Documents Filed: Memorandum from Director of Aviation Services Kimberly J. Becker, dated November 25, 2015, recommending approval of a Third Amendment to the Master Consultant Agreement.

Action: Upon motion by Council Member Raul Peralez, seconded by Vice Mayor Rose Herrera and carried unanimously, the memorandum from Mayor Sam Liccardo and Council Members Jones, Peralez, Carrasco and Khamis, dated December 11, 2015, was approved, accepting the recommendations outlined in the reports dated November 25, 2015 related to Items 6.1, 6.2 and 6.3 was approved and a Third Amendment to the Master Consultant Agreement for Airport marketing services with Civilian, Inc. (formerly AdEase), to increase the compensation by \$1,200,000, from \$8,220,000 to an amount not to exceed \$9,420,000, to provide funds for a marketing program with British Airways and a marketing program with Lufthansa Airlines was approved. (10-0-1. Absent: Carrasco.)

ENVIRONMENTAL & UTILITY SERVICES

- 7.1 Approve a Master Consultant Agreement with Kennedy/Jenks Consultants, Inc. to provide engineering services for the “#7448 – Filter Rehabilitation Project” at the San José-Santa Clara Regional Wastewater Facility from the date of execution through June 30, 2023, in a total amount not to exceed \$4,950,000, subject to the appropriation of funds. CEQA: Statutory Exemption, CEQA Guidelines Section 15262, Feasibility and Planning Studies. (Environmental Services)**

Documents Filed: (1) Memorandum from Director of Environmental Services Kerrie Romanow, dated November 23, 2015, recommending approval of a Master Consultant Agreement. (2) Letter from the Treatment Plant Advisory Committee, Jamie L. Matthews, Chair, dated December 11, 2015, expressing concurrence with the Staff recommendations.

Division Manager Water Pollution Control Julia Nguyen and Colin Page, San José-Santa Clara Regional Wastewater Facility (“RWF”) Contractor from MWH presented the report and responded to Council questions and concerns.

Motion: Council Member Ash Kalra moved approval of the Staff recommendations. Council Member Chappie Jones seconded the motion.

Mayor Sam Liccardo requested to amend the motion to add direction to Staff to report back with a supplemental memorandum to Council, the Transportation and Environment Committee (including the WPCP Committee) why the advanced purification treatment facility is separate rather than integrated, and if it can be integrated as part of the City of San José’s existing treatment, can resources be utilized more effectively. The amendment was accepted by Council Member Ash Kalra and Council Member Chappie Jones.

Council Member Johnny Khamis expressed concerns but will support the actions today.

Action: On a call for the question, the motion carried unanimously, a Master Consultant Agreement with Kennedy/Jenks Consultants, Inc. to provide engineering services for the “#7448 – Filter Rehabilitation Project” at the San José-Santa Clara Regional Wastewater Facility from the date of execution through June 30, 2023, in a total amount not to exceed \$4,950,000, subject to the appropriation of funds was approved. Staff was directed to report back with a supplemental memorandum to Council, the Transportation and Environment Committee (including the WPCP Committee) why the advanced purification treatment facility is separate rather than integrated, and if it can be integrated as part of the City of San José’s existing treatment, can resources be utilized more effectively. (10-0-1. Absent: Rocha.)

- 7.2 (a) **Adopt a resolution:**
- (1) **Authorizing the City Manager to negotiate and execute a new Master Service Agreement with Pacific Gas and Electric Company for the Silicon Valley Energy Watch program through March 31, 2019.**
 - (2) **Authorizing the City Manager to negotiate and execute an associated Contract Work Authorization with Pacific Gas and Electric Company for the Silicon Valley Energy Watch program in an amount up to \$3,681,067 through December 31, 2018.**
- (b) **Adopt the following 2015-2016 Appropriation Ordinance and Funding Sources Resolution amendments in the General Fund:**
- (1) **Establish a new City-Wide appropriation to the Environmental Services Department for Silicon Valley Energy Watch 2016 in the amount of \$484,748.**
 - (2) **Increase the Estimate for Other Revenue by \$484,748.**
- (c) **Extend the limit date for 2.0 Environmental Service Specialist positions assigned to the Environmental Services Department through March 31, 2019.**
- CEQA: Not a Project, File No. PP10-066, Agreements and contracts for services that involve no physical change to the environment. Services that involve no physical changes to the environment. (Environmental Services/City Manager)**

Documents Filed: Memorandum from Director of Environmental Services Kerrie Romanow and Senior Deputy City Manager/Budget Director Jennifer A. Maguire, dated November 23, 2015, recommending adoption of a resolution, appropriation ordinance and funding sources resolution amendments and extending the limit date for the Environmental Service Specialist positions.

Environmental Services Program Manager Rene Eyerly responded to questions from Mayor Sam Liccardo.

Action: Upon motion by Vice Mayor Rose Herrera, seconded by Council Member Ash Kalra and carried unanimously, Resolution No. 77636, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute a Master Service Agreement Through March 31, 2019 and An Associated Contract Work Authorization In An Amount Up To \$3,681,067 Through December 31, 2018, With Pacific Gas and Electric Company for the Silicon Valley Energy Watch Program"; Ordinance No. 29677, entitled: "An Ordinance of the City of San José Amending Ordinance No. 29589 to Appropriate Monies in the General Fund for the Silicon Valley Energy Watch 2016; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption" and Resolution No. 77637, entitled: "A Resolution of the Council of the City of San José Amending Resolution No. 77423 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2015-2016 to Adjust Revenues in the General Fund", were adopted and the limit date for 2.0 Environmental Service Specialist positions assigned to the Environmental Services Department was extended through March 31, 2019. (9-0-2. Absent: Oliverio, Rocha.)

7.3 As recommended by the Transportation and Environment Committee on December 7, 2015:

- (a) Accept third party studies of single-family residential recyclables characterization and hauler recycling facilities operations.**
- (b) Direct staff to return to Council in February 2016 with proposed updated contract language, if applicable, in Districts A and C, to reflect changes discussed in this report for Council consideration.**
- (c) Direct staff to implement pilot studies to (1) process recyclables residue from Districts A and C to recycle organic waste, (2) issue larger garbage carts for single-family residences in focused areas; and return to Council with any recommended program changes as part of the 2016-2017 budget process.**

CEQA: Not a Project, File No. PP10-069(a), Staff Reports that involve no approvals of any City Actions. (Environmental Services)

Action: Deferred to January 12, 2016 Per Administration.

REDEVELOPMENT – SUCCESSOR AGENCY

Mayor Sam Liccardo convened the Successor Agency to the Redevelopment Agency of the City of San José at 5:50 p.m.

9.1 Adopt resolutions of the Successor Agency Board to:

- (a) Approve the Administrative Budget for January 1 through June 30, 2016.**
- (b) Approve the Recognized Obligation Payment Schedule 15-16B and authorize payment of expenditures for items on ROPS 15-16B, which details the obligations of the Successor Agency for the period of January 1, 2016 through June 30, 2016.**

CEQA: Not a Project, File No. PP10-067(b), Appropriation Ordinance. (Successor Agency)

Documents Filed: Memorandum from Director of Finance Julia H. Cooper and Successor to the Redevelopment Agency Managing Director Richard A. Keit, dated November 23, 2015, recommending adoption of a resolution.

Action: Upon motion by Vice Mayor Rose Herrera, seconded by Council Member Tam Nguyen and carried unanimously, Successor Agency Resolution No. 7044, entitled: “A Resolution of the Successor Agency of the City of San José Approving the Administrative Budget for January 1, 2016 through June 30, 2016” and Successor Agency Resolution No. 7045, entitled: “A Resolution of the Successor Agency of the City of San José Approving the Recognized Obligation Payment Schedule 15-16B and Authorizing Payment of Expenditures for Items on ROPS 15-16B, Which Details the Obligations of the Successor Agency for the Period of January 1, 2016 through June 30, 2016”, were adopted. (9-0-2. Absent: Oliverio, Rocha.)

Mayor Sam Liccardo adjourned the Successor Agency to the Redevelopment Agency of the City of San José at 5:51 p.m.

NOTICE OF CITY ENGINEER'S PENDING DECISION ON FINAL MAPS

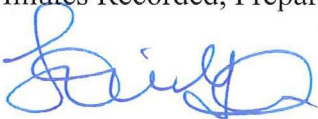
In accordance with Sec. 19.16.140d of the San José Municipal Code, this is notice of the City Engineer's pending decision on the following Final Maps:

<u>Tract</u>	<u>Location</u>	<u>Council District</u>	<u>Developer</u>	<u>Lots/ Units</u>	<u>Type</u>	<u>Proposed Decision</u>
10323	6055 Guadalupe Mines Road	10	La Encina Development LLC	7/5	SFD	Approve

ADJOURNMENT

The Council of the City of San José was adjourned at 5:52 p.m.

Minutes Recorded, Prepared and Respectfully Submitted by,



Toni J. Taber, CMC
City Clerk

smd/12-15-15 MIN

Access the video, the agenda and related reports for this meeting by visiting the City's website <http://www.sanjoseca.gov/civiccenter/tv>.
For information on any ordinance that is not hyperlinked to this document, please contact the Office of the City Clerk at (408) 535-1266.